

REMARKS

Reconsideration of this application as amended is respectfully requested. Claims 1-51 remain pending for the Examiner's consideration

Claims 1, 3, 4, 5, 6, 10, 12, 13, 14, 15, 16, 19, 21, 22, 23, 24 and 25 have been amended to place these claims in better form for appeal. The Examiner contended that the term "distribution side" was unclear. The Applicant has amended the claims to replace the term "distribution side" with "distribution facility" and to replace the corresponding term "receiving side" with "receiving facility." Applicant has also amended the claims to expressly state that the receiving facility is "geographically remote" from the distribution facility. As amended, the pending claims are clear and unambiguous.

The Examiner has rejected Applicant's independent claims 1, 10, 19, 28 and 40 under 35 U.S.C. § 102 as being anticipated by *Nuttall*. In order to anticipate these claims, however, *Nuttall* must disclose "each and every element" of these claims. *Manual of Patent Examining Procedure*, § 2131 at p. 2100-70 (February 2003). *Nuttall* fails to do so. The Examiner's contention to the contrary ignores clear and unambiguous language in these claims. Claim 1 is typical.

The preamble of Claim 1 recites that the "distribution facility generates copyrighted works and distributes the copyrighted works through a given transmission path to a receiving facility that pays a receiving fee for the copyrighted works." The preamble further recites that the receiving facility is "geographically remote" from the distribution facility. *Nuttall* discloses a complicated system for distributing copyrighted works that is spread out over nine nodes of a communications network such as the Internet. (See Figure 1.) One skilled in the art undoubtedly would understand,

therefore, that the nodes of *Nuttall* are located at geographically remote facilities. In *Nuttall*, content providing node 108 is directly connected to content receiving node 110. Content providing node 108 distributes copyrighted works, and content requesting node 110 receives the copyrighted works and pays a receiving fee for the copyrighted works. Assuming the nodes of *Nuttall* are located at geographically remote facilities, *Nuttall* discloses a distribution facility that generates copyrighted works and distributes the copyrighted works through a given transmission path to a geographically remote receiving facility that pays a receiving fee for the copyrighted works. If the nodes of *Nuttall* disclose this structure, however, *Nuttall* clearly does not disclose or suggest the elements of claim 1 or of Applicant's other independent claims.

Claim 1 recites, "copyright information storage means at the distribution facility for storing copyright information related to the copyrighted works, said copyright information including the identities of the copyrighted works, the identities of the owners of the copyrights for the copyrighted works and data related to the costs for downloading the copyrighted works at said receiving facility." Content providing node 108 stores no copyright information. Although *Nuttall* discloses storing certain information relating to copyrights, this information is stored in databases of content managing node 104. (See Paragraph 38 and Figure 2.) Content managing node 104 is not even directly connected to content providing node 108. (See Figure 1.)

Claim 1 next recites, "receiving means at the distribution facility for receiving downloading information, sent from the receiving facility, said downloading information identifying selected copyrighted works distributed from the distribution facility and downloaded at said receiving facility, indicating

that said receiving facility's downloading of said selected copyrighted works was authorized and indicating that an accounting has occurred for said receiving facility's payment for said downloading." Content providing node 108 receives no downloading information. Content requesting node 110 reports all information relating to the downloading of copyrighted works to event reporting node 116. (See Paragraph 35 and Figure 1.) Event reporting node 110 is not even directly connected to content providing node 108. (See Figure 1.)

Claim 1 finally recites "copyright management means at the distribution facility for performing copyright management related to the copyright for each selected copyrighted work in response to said downloading information and based upon said downloading information and the copyright information, said copyright management including calculating a copyright payment to each owner of the copyrights for the selected copyrighted works." Content providing node 108 performs no copyright management. The payment of "distribution fees and royalties" is performed by banking node 114. (See Paragraph 35.) Banking node 114 is not even directly connected to content providing node 108. (See Figure 1.)

Nuttall, therefore, does not anticipate Applicant's invention as claimed in claim 1 and in Applicant's other independent claims. In fact, *Nuttall's* distributed system teaches away from the invention of these claims.

The Examiner also has cited U. S. Patent No. 6,388,714 ("*Schein*"). *Schein*, however, was not cited against any of Applicant's independent claims. *Schein*, moreover, discloses a system "for providing television schedule and/or listing information to a viewer, and for allowing the viewer to link, search, select and interact with information in a remote database, e.g., a database on the internet." (Abstract.) *Schein* discloses no means for storing or managing copyright

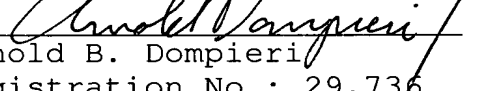
information. Schein, therefore, also does not disclose or suggest the invention of independent claims 1, 10, 19, 28 and 40. Since Applicant's remaining claims depend, either directly or indirectly, upon one of these independent claims, these dependent claims also are patentable over *Nuttall* and *Schein*.

Applicant submits that this amendment and response place this application in condition for allowance. An early notice of allowance of all of the pending claims, namely, claims 1-51, therefore, is respectfully requested. If for any reason the Examiner does not believe that such action can be taken at this time, however, he is respectfully requested to telephone Applicant's attorney at (908) 654-5000 in order to overcome any additional objections he may have.

If any additional charges are due in connection with this requested amendment, the Examiner is authorized to charge Deposit Account 12-1095 therefor.

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Respectfully submitted,

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